

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

GREGORY BROOKS

PLAINTIFF

vs.

CAUSE NO. 1:12-cv-00190-SA-DAS

**CITY OF WEST POINT, MISSISSIPPI;
JIMMY BIRCHFIELD; and
WILLIAM SPRADLING**

DEFENDANTS

**PLAINTIFF'S RESPONSE TO
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

Comes now, Plaintiff, by and through the undersigned counsel of record and files this response to Defendants' motion for summary judgment, and states as follows:

The individual defendants, Jimmy Birchfield and William Spradling, are not entitled to qualified immunity on the claims presented in Plaintiff's First Amended Complaint (Doc. 46). Plaintiff's arrest was unlawful and without probable cause. Plaintiff's arrest was in retaliation for Plaintiff's exercise of his well-established First Amendment right to verbally challenge a police officer. Further, Plaintiff suffered physical injuries due to the excessive, unnecessary and objectively unreasonable force used by Officers Spradling and Birchfield in placing Plaintiff under arrest. The individual officers' actions were objectively unreasonable under the circumstances and in light of clearly established law.

Plaintiff incorporates herein his memorandum in support of this response, filed contemporaneously herewith, as well as relying upon all exhibits filed herewith. All exhibits referenced in Plaintiff's memorandum are filed herewith, with the exception of audio recordings which will be mailed to the Court separately.

Based upon this response, the authorities cited in Plaintiff's memorandum, and the entire record available to the Court, Plaintiff respectfully request that the Court deny Defendants' motion for summary judgment.

Respectfully submitted this the 14th day of March, 2014.

BY: s/ Brandon Flechas
BRANDON FLECHAS (MSB#102283)
PHILIP A. STROUD (MSB# 99401)
Attorneys for Plaintiff

OF COUNSEL:

The Stroud Law Firm, P.C.
5779 Getwell Road, Suite C-1
Southaven, MS 38672
Tel. (662)536-5656
Fax (662)536-5657

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 14th day of March, 2014, electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

Lem E. Montgomery, III

Orlando R. Richmond, Sr.
Butler, Snow, O'Mara, Stevens &
Cannada, PLLC
lem.montgomery@butlersnow.com
orlando.richmond@butlersnow.com

Attorney for Defendants

And I hereby certify that I have mailed by United States Postal Service the document to the following non-ECF participants: None.

s/ Brandon Flechas